

REMARKS/ARGUMENTS

Introduction

Receipt of the Office Action mailed June 29, 2007 is acknowledged. Favorable reconsideration of the instant claims is earnestly solicited.

No claims are amended, added or deleted. Entry of this response and consideration of the remarks and evidence presented herein is respectfully requested pursuant to 37 CFR 1.116. Indeed, this response is believed to place this application in condition for allowance or in better condition for appeal, as the evidence presented herein provides a further basis of patentability of claims 9-12 and 15-20. This further evidence includes a Declaration of Mr. Lemaitre that proves the claimed invention is not the same as that taught in the references being relied upon (Haszler or EP '068). The Lemaitre Declaration also provides evidence that the claimed invention in terms of a product having a WT_{bar} less than 0.5 kJ/m^3 , was surprising in view of what would have been expected by the prior art that only achieves WT_{bar} values from $0.06\text{-}0.14 \text{ kJ/m}^3$.

The evidence presented in the Lemaitre Declaration is commensurate in scope with prior arguments already advanced by Applicants, and hence is properly submitted under 37 CFR 1.116.

Claim Rejections - 35 U.S.C § 102(b)/103(a)

Claims 9, 12 and 19 were rejected under 35 USC 102(b) and/or 103(a) as allegedly being unpatentable over Haszler or EP '068. Claims 10, 11, 15-18 and 20 have been rejected under 35 USC 103(a) over Haszler or EP '068.

These rejections are respectfully traversed for at least the following reasons.

Submitted herewith is a Declaration under 1.132 of Mr. Lemaitre. Mr. Lemaitre provides clear evidence that the claimed invention is different from and unexpectedly

superior to the products of Haszler or EP '068 that both employ ST direction compression through the thickness of the part, and thus could not possibly arrive at a product as claimed. Namely, both Haszler and EP '068 use a through thickness stress relieving process using only part volumes of material. The process of Haszler and/or EP '068 will result in a different product than that claimed in claims 9, 12 or 19. Each of claims 9, 12 and 19 recite that compression is performed at a total rate of 0.5-5% so as to result in a product having a WT_{bar} less than 0.5 kJ/m^3 . Haszler and EP '068 have WT_{bar} values from $0.06\text{-}0.14 \text{ kJ/m}^3$ (see ¶ 5 of Mr. Lamaitre's Declaration). Therefore, there is no anticipation of claims 9, 12 or 19 under 102 by either Haszler or EP '068.

Moreover, each of claims 9-12, 15-20 is nonobvious over Haszler and EP '068. Mr. Lamaitre has specifically stated in ¶ 5, that to him as one of ordinary skill in the art, the claimed invention wherein the products have a WT_{bar} less than 0.5 kJ/m^3 , is unexpectedly and surprisingly superior to Haszler and EP '068 which have WT_{bar} values from $0.06\text{-}0.14 \text{ kJ/m}^3$. This evidence of Mr. Lemaitre is very probative and must be considered for purposes of § 103 according to the recent US Supreme Court decision in *KSR*.

For all these reasons, it is respectfully urged that the instant rejections are improper and should be withdrawn. Favorable reconsideration is earnestly solicited.

Conclusion

For all the reasons advanced herein, the instant application is believed to be in condition for allowance. Applicants respectfully request rejoinder of any claims that are rejoinable under the *In re Ochiai* guidelines. It is also respectfully requested that the Examiner expeditiously notify Applicant's undersigned attorney as to the disposition of the remarks presented herein in accordance with M.P.E.P. § 714.13.

Any comments or questions concerning the application can be directed to the undersigned at the telephone number given below.

Applicant believes no fee or extension of time is needed with the present response. However, the Examiner may charge any deficiency in fees or credit any overpayments to Deposit Account No. 09-0528 (Docket No. A240 1050.1).

Respectfully submitted,

 #39,893

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